a state may constitutionally restrain unsound banks from doing business, or may require a deposit of securities for the safety of note holders or depositors. *Commonwealth* v. *Farmers & Mechanics Bank*, 21 Pick. (Mass). 542; *Medill* v. *Collier*, 16 Oh. St. 599. The Oklahoma statute, however, merges the required deposit into a common fund for the security of depositors in any insolvent bank; so it may be objected that a bank which remains solvent is unjustly deprived of property. The answer is that both strong and weak banks may become insolvent, and all insolvent banks will receive equal treatment in respect to the common fund. See *State* v. *Richcreek*, 167 Ind. 217. The constitutionality of early statutes requiring a common guaranty fund seems to have been accepted without question. See *Elwood* v. *Vermont*, 23 Vt. 701.

PROFITS À PRENDRE — PROFIT APPURTENANT CLAIMED WITHOUT STINT. — In defense to an action of trespass on a non-tidal stream belonging to the plaintiff, the defendant claimed a right from time immemorial, vested in the tenants of a certain manor, to fish on the property without stint and for commercial purposes. *Held*, that the court will not presume a grant of such a right. *Lord Chesterfield* v. *Harris*, [1908] 2 Ch. 397.

A profit *à prendre* may be appurtenant to land. *Huntington* v. *Asher*, 96 N. Y. 604. Or it may be held in gross, so as to be assignable. *Welcome* v. *Upton*, 6 M. & W. 536. And, so it would seem, may a use without stint. See *Bailey* v. *Stevens*, 12 C. B. (N. S.) 91. But it is doubtful whether an easement in gross may be required. *Mayor, etc., of New York* v. *Law*, 125 N. Y. 380. *Contra*, *Rangeley* v. *Midland Railway Co.*, L. R. 3 Ch. 306. It follows that an easement not connected with the use of the dominant tenement cannot pass with that tenement. *Ackroyd* v. *Smith*, 10 C. B. 164. Such an easement would be an anomaly; for it would be in effect personal and yet treated as appurtenant to land. This same reasoning, applied to the present case, shows the ground for refusing to uphold a use claimed as appurtenant which is without stint and therefore unlimited by the dominant estate. Even though an easement may be held in gross it must be claimed as in a man and his ancestors, not as annexed to land. For if a right is claimed as annexed to land it must be measured by the size and want of the estate to which it is appurtenant. See 2 Bl. Com. 265.

PUBLIC OFFICERS — RESIGNATION — WITHDRAWAL OF RESIGNATION. — A sheriff tendered his resignation to the board of county commissioners to take effect at a designated future day. The commissioners accepted it. *Held*, that the sheriff may, nevertheless, withdraw the resignation before the day appointed. *Ryan* v. *Murphy*, 97 Pac. 391 (Nev.).

For a discussion of the principles involved, see 19 HARV. L. REV. 304.

RESTRAINT OF TRADE — SHERMAN ANTI-TRUST LAW — AMERICAN TOBACCO COMPANY'S CASE. — The defendants were engaged in buying raw material, manufacturing, and selling the product beyond their state lines. Each owned many factories outright and controlled many through stock ownership, and they were together under affiliated managements. *Held*, that each defendant is a combination in restraint of trade under § 1 of the Sherman Act. *U. S.* v. *American Tobacco Co.*, 40 N. Y. L. J. 691 (C. C. A., S. D. N. Y., Nov. 7, 1908). See NOTES, p. 216.

RIGHT OF PRIVACY — CONSTITUTIONALITY OF STATUTE FORBIDDING UNAUTHORIZED USE OF NAME OR PORTRAIT FOR ADVERTISING PURPOSES. — A statute gave to a person whose name or portrait was used by another for advertising or trade purposes, without written consent, an equitable action to restrain such use, authorized an award of exemplary damages against the defendant if he shall have knowingly used the name or portrait in the manner declared unlawful by the act; and made such use of another's name or portrait a misdemeanor. *Held*, that the statute is not unconstitutional. *Rhodes* v. *The Sperry & Hutchinson Co.*, 40 N. Y. L. J. 494 (N. Y., Ct. App., Oct. 23, 1908).

This statute was directly aimed at a much criticized decision of the New York court which denied any remedy in such cases. *Roberson* v. *Rochester, etc., Co.*,